

AN ACT concerning revenue.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

ARTICLE 1. SHORT TITLE; PURPOSE

Section 1-1. Short title. This Act may be cited as the FY2007 Budget Implementation (Revenue) Act.

Section 1-3. Purpose. The purpose of this Act is to make changes in State programs that are necessary to implement the Governor's FY2007 budget recommendations concerning revenue.

ARTICLE 5. AMENDATORY PROVISIONS

Section 5-5. The Illinois Income Tax Act is amended by changing Sections 905 and 911 as follows:

(35 ILCS 5/905) (from Ch. 120, par. 9-905)

Sec. 905. Limitations on Notices of Deficiency.

(a) In general. Except as otherwise provided in this Act:

(1) A notice of deficiency shall be issued not later than 3 years after the date the return was filed, and

(2) No deficiency shall be assessed or collected with respect to the year for which the return was filed unless such notice is issued within such period.

(b) Substantial omission of items.

(1) Omission of more than 25% of income. If the taxpayer omits from base income an amount properly includible therein which is in excess of 25% of the amount of base income stated in the return, a notice of deficiency may be issued not later than 6 years after the return was filed. For purposes of this paragraph, there shall not be taken into account any amount which is omitted in the

return if such amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Department of the nature and the amount of such item.

(2) Reportable transactions. If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a reportable transaction, as required under Section 501(b) of this Act, a notice of deficiency may be issued not later than 6 years after the return is filed with respect to the taxable year in which the taxpayer participated in the reportable transaction and said deficiency is limited to the non-disclosed item.

(c) No return or fraudulent return. If no return is filed or a false and fraudulent return is filed with intent to evade the tax imposed by this Act, a notice of deficiency may be issued at any time.

(d) Failure to report federal change. If a taxpayer fails to notify the Department in any case where notification is required by Section 304(c) or 506(b), or fails to report a change or correction which is treated in the same manner as if it were a deficiency for federal income tax purposes, a notice of deficiency may be issued (i) at any time or (ii) on or after August 13, 1999, at any time for the taxable year for which the notification is required or for any taxable year to which the taxpayer may carry an Article 2 credit, or a Section 207 loss, earned, incurred, or used in the year for which the notification is required; provided, however, that the amount of any proposed assessment set forth in the notice shall be limited to the amount of any deficiency resulting under this Act from the recomputation of the taxpayer's net income, Article 2 credits, or Section 207 loss earned, incurred, or used in the taxable year for which the notification is required after giving effect to the item or items required to be reported.

(e) Report of federal change.

(1) Before August 13, 1999, in any case where

notification of an alteration is given as required by Section 506(b), a notice of deficiency may be issued at any time within 2 years after the date such notification is given, provided, however, that the amount of any proposed assessment set forth in such notice shall be limited to the amount of any deficiency resulting under this Act from recomputation of the taxpayer's net income, net loss, or Article 2 credits for the taxable year after giving effect to the item or items reflected in the reported alteration.

(2) On and after August 13, 1999, in any case where notification of an alteration is given as required by Section 506(b), a notice of deficiency may be issued at any time within 2 years after the date such notification is given for the taxable year for which the notification is given or for any taxable year to which the taxpayer may carry an Article 2 credit, or a Section 207 loss, earned, incurred, or used in the year for which the notification is given, provided, however, that the amount of any proposed assessment set forth in such notice shall be limited to the amount of any deficiency resulting under this Act from recomputation of the taxpayer's net income, Article 2 credits, or Section 207 loss earned, incurred, or used in the taxable year for which the notification is given after giving effect to the item or items reflected in the reported alteration.

(f) Extension by agreement. Where, before the expiration of the time prescribed in this Section for the issuance of a notice of deficiency, both the Department and the taxpayer shall have consented in writing to its issuance after such time, such notice may be issued at any time prior to the expiration of the period agreed upon. In the case of a taxpayer who is a partnership, Subchapter S corporation, or trust and who enters into an agreement with the Department pursuant to this subsection on or after January 1, 2003, a notice of deficiency may be issued to the partners, shareholders, or beneficiaries of the taxpayer at any time prior to the

expiration of the period agreed upon. Any proposed assessment set forth in the notice, however, shall be limited to the amount of any deficiency resulting under this Act from recomputation of items of income, deduction, credits, or other amounts of the taxpayer that are taken into account by the partner, shareholder, or beneficiary in computing its liability under this Act. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(g) Erroneous refunds. In any case in which there has been an erroneous refund of tax payable under this Act, a notice of deficiency may be issued at any time within 2 years from the making of such refund, or within 5 years from the making of such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact, provided, however, that the amount of any proposed assessment set forth in such notice shall be limited to the amount of such erroneous refund.

Beginning July 1, 1993, in any case in which there has been a refund of tax payable under this Act attributable to a net loss carryback as provided for in Section 207, and that refund is subsequently determined to be an erroneous refund due to a reduction in the amount of the net loss which was originally carried back, a notice of deficiency for the erroneous refund amount may be issued at any time during the same time period in which a notice of deficiency can be issued on the loss year creating the carryback amount and subsequent erroneous refund. The amount of any proposed assessment set forth in the notice shall be limited to the amount of such erroneous refund.

(h) Time return deemed filed. For purposes of this Section a tax return filed before the last day prescribed by law (including any extension thereof) shall be deemed to have been filed on such last day.

(i) Request for prompt determination of liability. For purposes of subsection (a)(1), in the case of a tax return required under this Act in respect of a decedent, or by his

estate during the period of administration, or by a corporation, the period referred to in such Subsection shall be 18 months after a written request for prompt determination of liability is filed with the Department (at such time and in such form and manner as the Department shall by regulations prescribe) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by such corporation, but not more than 3 years after the date the return was filed. This subsection shall not apply in the case of a corporation unless:

(1) (A) such written request notifies the Department that the corporation contemplates dissolution at or before the expiration of such 18-month period, (B) the dissolution is begun in good faith before the expiration of such 18-month period, and (C) the dissolution is completed;

(2) (A) such written request notifies the Department that a dissolution has in good faith been begun, and (B) the dissolution is completed; or

(3) a dissolution has been completed at the time such written request is made.

(j) Withholding tax. In the case of returns required under Article 7 of this Act (with respect to any amounts withheld as tax or any amounts required to have been withheld as tax) a notice of deficiency shall be issued not later than 3 years after the 15th day of the 4th month following the close of the calendar year in which such withholding was required.

(k) Penalties for failure to make information reports. A notice of deficiency for the penalties provided by Subsection 1405.1(c) of this Act may not be issued more than 3 years after the due date of the reports with respect to which the penalties are asserted.

(l) Penalty for failure to file withholding returns. A notice of deficiency for penalties provided by Section 1004 of this Act for taxpayer's failure to file withholding returns may not be issued more than three years after the 15th day of the 4th month following the close of the calendar year in which the

withholding giving rise to taxpayer's obligation to file those returns occurred.

(m) Transferee liability. A notice of deficiency may be issued to a transferee relative to a liability asserted under Section 1405 during time periods defined as follows:

1) Initial Transferee. In the case of the liability of an initial transferee, up to 2 years after the expiration of the period of limitation for assessment against the transferor, except that if a court proceeding for review of the assessment against the transferor has begun, then up to 2 years after the return of the certified copy of the judgment in the court proceeding.

2) Transferee of Transferee. In the case of the liability of a transferee, up to 2 years after the expiration of the period of limitation for assessment against the preceding transferee, but not more than 3 years after the expiration of the period of limitation for assessment against the initial transferor; except that if, before the expiration of the period of limitation for the assessment of the liability of the transferee, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the initial transferor or the last preceding transferee, as the case may be, then the period of limitation for assessment of the liability of the transferee shall expire 2 years after the return of the certified copy of the judgment in the court proceeding.

(n) Notice of decrease in net loss. On and after August 23, 2002 ~~the effective date of this amendatory Act of the 92nd General Assembly~~, no notice of deficiency shall be issued as the result of a decrease determined by the Department in the net loss incurred by a taxpayer in any taxable year ending prior to December 31, 2002 under Section 207 of this Act unless the Department has notified the taxpayer of the proposed decrease within 3 years after the return reporting the loss was filed or within one year after an amended return reporting an

increase in the loss was filed, provided that in the case of an amended return, a decrease proposed by the Department more than 3 years after the original return was filed may not exceed the increase claimed by the taxpayer on the original return.

(Source: P.A. 92-846, eff. 8-23-02; 93-840, eff. 7-30-04.)

(35 ILCS 5/911) (from Ch. 120, par. 9-911)

Sec. 911. Limitations on Claims for Refund.

(a) In general. Except as otherwise provided in this Act:

(1) A claim for refund shall be filed not later than 3 years after the date the return was filed (in the case of returns required under Article 7 of this Act respecting any amounts withheld as tax, not later than 3 years after the 15th day of the 4th month following the close of the calendar year in which such withholding was made), or one year after the date the tax was paid, whichever is the later; and

(2) No credit or refund shall be allowed or made with respect to the year for which the claim was filed unless such claim is filed within such period.

(b) Federal changes.

(1) In general. In any case where notification of an alteration is required by Section 506(b), a claim for refund may be filed within 2 years after the date on which such notification was due (regardless of whether such notice was given), but the amount recoverable pursuant to a claim filed under this Section shall be limited to the amount of any overpayment resulting under this Act from recomputation of the taxpayer's net income, net loss, or Article 2 credits for the taxable year after giving effect to the item or items reflected in the alteration required to be reported.

(2) Tentative carryback adjustments paid before January 1, 1974. If, as the result of the payment before January 1, 1974 of a federal tentative carryback adjustment, a notification of an alteration is required

under Section 506(b), a claim for refund may be filed at any time before January 1, 1976, but the amount recoverable pursuant to a claim filed under this Section shall be limited to the amount of any overpayment resulting under this Act from recomputation of the taxpayer's base income for the taxable year after giving effect to the federal alteration resulting from the tentative carryback adjustment irrespective of any limitation imposed in paragraph (1) of this subsection.

(c) Extension by agreement. Where, before the expiration of the time prescribed in this section for the filing of a claim for refund, both the Department and the claimant shall have consented in writing to its filing after such time, such claim may be filed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. In the case of a taxpayer who is a partnership, Subchapter S corporation, or trust and who enters into an agreement with the Department pursuant to this subsection on or after January 1, 2003, a claim for refund may be issued to the partners, shareholders, or beneficiaries of the taxpayer at any time prior to the expiration of the period agreed upon. Any refund allowed pursuant to the claim, however, shall be limited to the amount of any overpayment of tax due under this Act that results from recomputation of items of income, deduction, credits, or other amounts of the taxpayer that are taken into account by the partner, shareholder, or beneficiary in computing its liability under this Act.

(d) Limit on amount of credit or refund.

(1) Limit where claim filed within 3-year period. If the claim was filed by the claimant during the 3-year period prescribed in subsection (a), the amount of the credit or refund shall not exceed the portion of the tax paid within the period, immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return.

(2) Limit where claim not filed within 3-year period.

If the claim was not filed within such 3-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the one year immediately preceding the filing of the claim.

(e) Time return deemed filed. For purposes of this section a tax return filed before the last day prescribed by law for the filing of such return (including any extensions thereof) shall be deemed to have been filed on such last day.

(f) No claim for refund based on the taxpayer's taking a credit for estimated tax payments as provided by Section 601(b)(2) or for any amount paid by a taxpayer pursuant to Section 602(a) or for any amount of credit for tax withheld pursuant to Section 701 may be filed more than 3 years after the due date, as provided by Section 505, of the return which was required to be filed relative to the taxable year for which the payments were made or for which the tax was withheld. The changes in this subsection (f) made by this amendatory Act of 1987 shall apply to all taxable years ending on or after December 31, 1969.

(g) Special Period of Limitation with Respect to Net Loss Carrybacks. If the claim for refund relates to an overpayment attributable to a net loss carryback as provided by Section 207, in lieu of the 3 year period of limitation prescribed in subsection (a), the period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the net loss which results in such carryback (or, on and after August 13, 1999, with respect to a change in the carryover of an Article 2 credit to a taxable year resulting from the carryback of a Section 207 loss incurred in a taxable year beginning on or after January 1, 2000, the period shall be that period that ends 3 years after the time prescribed by law for filing the return (including extensions of that time) for that subsequent taxable year), or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the

case of such a claim, the amount of the refund may exceed the portion of the tax paid within the period provided in subsection (d) to the extent of the amount of the overpayment attributable to such carryback. On and after August 13, 1999, if the claim for refund relates to an overpayment attributable to the carryover of an Article 2 credit, or of a Section 207 loss, earned, incurred (in a taxable year beginning on or after January 1, 2000), or used in a year for which a notification of a change affecting federal taxable income must be filed under subsection (b) of Section 506, the claim may be filed within the period prescribed in paragraph (1) of subsection (b) in respect of the year for which the notification is required. In the case of such a claim, the amount of the refund may exceed the portion of the tax paid within the period provided in subsection (d) to the extent of the amount of the overpayment attributable to the recomputation of the taxpayer's Article 2 credits, or Section 207 loss, earned, incurred, or used in the taxable year for which the notification is given.

(h) Claim for refund based on net loss. On and after August 23, 2002 ~~the effective date of this amendatory Act of the 92nd General Assembly~~, no claim for refund shall be allowed to the extent the refund is the result of an amount of net loss incurred in any taxable year ending prior to December 31, 2002 under Section 207 of this Act that was not reported to the Department within 3 years of the due date (including extensions) of the return for the loss year on either the original return filed by the taxpayer or on amended return or to the extent that the refund is the result of an amount of net loss incurred in any taxable year under Section 207 for which no return was filed within 3 years of the due date (including extensions) of the return for the loss year.

(Source: P.A. 91-541, eff. 8-13-99; 92-846, eff. 8-23-02.)

Section 5-10. The Public Utilities Act is amended by changing Section 8-403.1 as follows:

(220 ILCS 5/8-403.1) (from Ch. 111 2/3, par. 8-403.1)

Sec. 8-403.1. Electricity purchased from qualified solid waste energy facility; tax credit; distributions for economic development.

(a) It is hereby declared to be the policy of this State to encourage the development of alternate energy production facilities in order to conserve our energy resources and to provide for their most efficient use.

(b) For the purpose of this Section and Section 9-215.1, "qualified solid waste energy facility" means a facility determined by the Illinois Commerce Commission to qualify as such under the Local Solid Waste Disposal Act, to use methane gas generated from landfills as its primary fuel, and to possess characteristics that would enable it to qualify as a cogeneration or small power production facility under federal law.

(c) In furtherance of the policy declared in this Section, the Illinois Commerce Commission shall require electric utilities to enter into long-term contracts to purchase electricity from qualified solid waste energy facilities located in the electric utility's service area, for a period beginning on the date that the facility begins generating electricity and having a duration of not less than 10 years in the case of facilities fueled by landfill-generated methane, or 20 years in the case of facilities fueled by methane generated from a landfill owned by a forest preserve district. The purchase rate contained in such contracts shall be equal to the average amount per kilowatt-hour paid from time to time by the unit or units of local government in which the electricity generating facilities are located, excluding amounts paid for street lighting and pumping service.

(d) Whenever a public utility is required to purchase electricity pursuant to subsection (c) above, it shall be entitled to credits in respect of its obligations to remit to the State taxes it has collected under the Electricity Excise Tax Law equal to the amounts, if any, by which payments for

such electricity exceed (i) the then current rate at which the utility must purchase the output of qualified facilities pursuant to the federal Public Utility Regulatory Policies Act of 1978, less (ii) any costs, expenses, losses, damages or other amounts incurred by the utility, or for which it becomes liable, arising out of its failure to obtain such electricity from such other sources. The amount of any such credit shall, in the first instance, be determined by the utility, which shall make a monthly report of such credits to the Illinois Commerce Commission and, on its monthly tax return, to the Illinois Department of Revenue. Under no circumstances shall a utility be required to purchase electricity from a qualified solid waste energy facility at the rate prescribed in subsection (c) of this Section if such purchase would result in estimated tax credits that exceed, on a monthly basis, the utility's estimated obligation to remit to the State taxes it has collected under the Electricity Excise Tax Law. The owner or operator shall negotiate facility operating conditions with the purchasing utility in accordance with that utility's posted standard terms and conditions for small power producers. If the Department of Revenue disputes the amount of any such credit, such dispute shall be decided by the Illinois Commerce Commission. Whenever a qualified solid waste energy facility has paid or otherwise satisfied in full the capital costs or indebtedness incurred in developing and implementing the qualified solid waste energy facility, whenever the qualified solid waste energy facility ceases to operate and produce electricity from methane gas generated from landfills, or at the end of the contract entered into pursuant to subsection (c) of this Section, whichever occurs first, the qualified solid waste energy facility shall reimburse the Public Utility Fund and the General Revenue Fund in the State treasury for the actual reduction in payments to those Funds caused by this subsection (d) in a manner to be determined by the Illinois Commerce Commission and based on the manner in which revenues for those Funds were reduced. The payments shall be made to the

Illinois Commerce Commission, which shall determine the appropriate disbursements to the Public Utility Fund and the General Revenue Fund based on this subsection (d).

(e) The Illinois Commerce Commission shall not require an electric utility to purchase electricity from any qualified solid waste energy facility which is owned or operated by an entity that is primarily engaged in the business of producing or selling electricity, gas, or useful thermal energy from a source other than one or more qualified solid waste energy facilities.

(e-5) A qualified solid waste energy facility may receive the purchase rate provided in subsection (c) of this Section only for kilowatt-hours generated by the use of methane gas generated from landfills. The purchase rate provided in subsection (c) of this Section does not apply to electricity generated by the use of a fuel that is not methane gas generated from landfills. If the Illinois Commerce Commission determines that a qualified solid waste energy facility has violated the requirement regarding the use of methane gas generated from a landfill as set forth in this subsection (e-5), then the Commission shall issue an order requiring that the qualified solid waste energy facility repay the State for all dollar amounts of electricity sales that are determined by the Commission to be the result of the violation. As part of that order, the Commission shall have the authority to revoke the facility's approval to act as a qualified solid waste energy facility granted by the Commission under this Section. If the amount owed by the qualified solid waste energy facility is not received by the Commission within 90 days after the date of the Commission's order that requires repayment, then the Commission shall issue an order that revokes the facility's approval to act as a qualified solid waste energy facility granted by the Commission under this Section. The Commission's action that vacates prior qualified solid waste energy facility approval does not excuse the repayment to the State treasury required by subsection (d) of this Section for utility tax

credits accumulated up to the time of the Commission's action. A qualified solid waste energy facility must receive Commission approval before it may use any fuel in addition to methane gas generated from a landfill in order to generate electricity. If a qualified solid waste energy facility petitions the Commission to use any fuel in addition to methane gas generated from a landfill to generate electricity, then the Commission shall have the authority to do the following:

(1) establish the methodology for determining the amount of electricity that is generated by the use of methane gas generated from a landfill and the amount that is generated by the use of other fuel;

(2) determine all reporting requirements for the qualified solid waste energy facility that are necessary for the Commission to determine the amount of electricity that is generated by the use of methane gas from a landfill and the amount that is generated by the use of other fuel and the resulting payments to the qualified solid waste energy facility; and

(3) require that the qualified solid waste energy facility, at the qualified solid waste energy facility's expense, install metering equipment that the Commission determines is necessary to enforce compliance with this subsection (e-5).

A public utility that is required to enter into a long-term purchase contract with a qualified solid waste energy facility has no duty to determine whether the electricity being purchased was generated by the use of methane gas generated from a landfill or was generated by the use of some other fuel in violation of the requirements of this subsection (e-5).

(f) This Section does not require an electric utility to construct additional facilities unless those facilities are paid for by the owner or operator of the affected qualified solid waste energy facility.

(g) The Illinois Commerce Commission shall require that:
(1) electric utilities use the electricity purchased from a

qualified solid waste energy facility to displace electricity generated from nuclear power or coal mined and purchased outside the boundaries of the State of Illinois before displacing electricity generated from coal mined and purchased within the State of Illinois, to the extent possible, and (2) electric utilities report annually to the Commission on the extent of such displacements.

(h) Nothing in this Section is intended to cause an electric utility that is required to purchase power hereunder to incur any economic loss as a result of its purchase. All amounts paid for power which a utility is required to purchase pursuant to subparagraph (c) shall be deemed to be costs prudently incurred for purposes of computing charges under rates authorized by Section 9-220 of this Act. Tax credits provided for herein shall be reflected in charges made pursuant to rates so authorized to the extent such credits are based upon a cost which is also reflected in such charges.

(i) Beginning in February 1999 and through January 2009, each qualified solid waste energy facility that sells electricity to an electric utility at the purchase rate described in subsection (c) shall file with the Department of Revenue on or before the 15th of each month a form, prescribed by the Department of Revenue, that states the number of kilowatt hours of electricity for which payment was received at that purchase rate from electric utilities in Illinois during the immediately preceding month. This form shall be accompanied by a payment from the qualified solid waste energy facility in an amount equal to six-tenths of a mill (\$.0006) per kilowatt hour of electricity stated on the form. Beginning on the effective date of this amendatory Act of the 92nd General Assembly, a qualified solid waste energy facility must file the form required under this subsection (i) before the 15th of each month regardless of whether the facility received any payment in the previous month. Payments received by the Department of Revenue shall be deposited into the Municipal Economic Development Fund, a trust fund created outside the State

treasury. The State Treasurer may invest the moneys in the Fund in any investment authorized by the Public Funds Investment Act, and investment income shall be deposited into and become part of the Fund. Moneys in the Fund shall be used by the State Treasurer as provided in subsection (j).

Beginning on July 1, 2006 through January 31, 2009, each month the State Treasurer shall certify the following to the State Comptroller:

(A) the amount received by the Department of Revenue under this subsection (i) during the immediately preceding month; and

(B) the amount received by the Department of Revenue under this subsection (i) in the corresponding month in calendar year 2002.

As soon as practicable after receiving the certification from the State Treasurer, the State Comptroller shall transfer from the General Revenue Fund to the Municipal Economic Development Fund in the State treasury an amount equal to the amount by which the amount calculated under item (B) of this paragraph exceeds the amount calculated under item (A) of this paragraph, if any.

The obligation of a qualified solid waste energy facility to make payments into the Municipal Economic Development Fund shall terminate upon either: (1) expiration or termination of a facility's contract to sell electricity to an electric utility at the purchase rate described in subsection (c); or (2) entry of an enforceable, final, and non-appealable order by a court of competent jurisdiction that Public Act 89-448 is invalid. Payments by a qualified solid waste energy facility into the Municipal Economic Development Fund do not relieve the qualified solid waste energy facility of its obligation to reimburse the Public Utility Fund and the General Revenue Fund for the actual reduction in payments to those Funds as a result of credits received by electric utilities under subsection (d).

A qualified solid waste energy facility that fails to timely file the requisite form and payment as required by this

subsection (i) shall be subject to penalties and interest in conformance with the provisions of the Illinois Uniform Penalty and Interest Act.

Every qualified solid waste energy facility subject to the provisions of this subsection (i) shall keep and maintain records and books of its sales pursuant to subsection (c), including payments received from those sales and the corresponding tax payments made in accordance with this subsection (i), and for purposes of enforcement of this subsection (i) all such books and records shall be subject to inspection by the Department of Revenue or its duly authorized agents or employees.

When a qualified solid waste energy facility fails to file the form or make the payment required under this subsection (i), the Department of Revenue, to the extent that it is practical, may enforce the payment obligation in a manner consistent with Section 5 of the Retailers' Occupation Tax Act, and if necessary may impose and enforce a tax lien in a manner consistent with Sections 5a, 5b, 5c, 5d, 5e, 5f, 5g, and 5i of the Retailers' Occupation Tax Act. No tax lien may be imposed or enforced, however, unless a qualified solid waste energy facility fails to make the payment required under this subsection (i). Only to the extent necessary and for the purpose of enforcing this subsection (i), the Department of Revenue may secure necessary information from a qualified solid waste energy facility in a manner consistent with Section 10 of the Retailers' Occupation Tax Act.

All information received by the Department of Revenue in its administration and enforcement of this subsection (i) shall be confidential in a manner consistent with Section 11 of the Retailers' Occupation Tax Act. The Department of Revenue may adopt rules to implement the provisions of this subsection (i).

For purposes of implementing the maximum aggregate distribution provisions in subsections (j) and (k), when a qualified solid waste energy facility makes a late payment to the Department of Revenue for deposit into the Municipal

Economic Development Fund, that payment and deposit shall be attributed to the month and corresponding quarter in which the payment should have been made, and the Treasurer shall make retroactive distributions or refunds, as the case may be, whenever such late payments so require.

(j) The State Treasurer, without appropriation, must make distributions immediately after January 15, April 15, July 15, and October 15 of each year, up to maximum aggregate distributions of \$500,000 for the distributions made in the 4 quarters beginning with the April distribution and ending with the January distribution, from the Municipal Economic Development Fund to each city, village, or incorporated town that has within its boundaries an incinerator that: (1) uses or, on the effective date of Public Act 90-813, used municipal waste as its primary fuel to generate electricity; (2) was determined by the Illinois Commerce Commission to qualify as a qualified solid waste energy facility prior to the effective date of Public Act 89-448; and (3) commenced operation prior to January 1, 1998. Total distributions in the aggregate to all qualified cities, villages, and incorporated towns in the 4 quarters beginning with the April distribution and ending with the January distribution shall not exceed \$500,000. The amount of each distribution shall be determined pro rata based on the population of the city, village, or incorporated town compared to the total population of all cities, villages, and incorporated towns eligible to receive a distribution. Distributions received by a city, village, or incorporated town must be held in a separate account and may be used only to promote and enhance industrial, commercial, residential, service, transportation, and recreational activities and facilities within its boundaries, thereby enhancing the employment opportunities, public health and general welfare, and economic development within the community, including administrative expenditures exclusively to further these activities. These funds, however, shall not be used by the city, village, or incorporated town, directly or indirectly, to

purchase, lease, operate, or in any way subsidize the operation of any incinerator, and these funds shall not be paid, directly or indirectly, by the city, village, or incorporated town to the owner, operator, lessee, shareholder, or bondholder of any incinerator. Moreover, these funds shall not be used to pay attorneys fees in any litigation relating to the validity of Public Act 89-448. Nothing in this Section prevents a city, village, or incorporated town from using other corporate funds for any legitimate purpose. For purposes of this subsection, the term "municipal waste" has the meaning ascribed to it in Section 3.290 of the Environmental Protection Act.

(k) If maximum aggregate distributions of \$500,000 under subsection (j) have been made after the January distribution from the Municipal Economic Development Fund, then the balance in the Fund shall be refunded to the qualified solid waste energy facilities that made payments that were deposited into the Fund during the previous 12-month period. The refunds shall be prorated based upon the facility's payments in relation to total payments for that 12-month period.

(l) Beginning January 1, 2000, and each January 1 thereafter, each city, village, or incorporated town that received distributions from the Municipal Economic Development Fund, continued to hold any of those distributions, or made expenditures from those distributions during the immediately preceding year shall submit to a financial and compliance and program audit of those distributions performed by the Auditor General at no cost to the city, village, or incorporated town that received the distributions. The audit should be completed by June 30 or as soon thereafter as possible. The audit shall be submitted to the State Treasurer and those officers enumerated in Section 3-14 of the Illinois State Auditing Act. If the Auditor General finds that distributions have been expended in violation of this Section, the Auditor General shall refer the matter to the Attorney General. The Attorney General may recover, in a civil action, 3 times the amount of any distributions illegally expended. For purposes of this

subsection, the terms "financial audit," "compliance audit", and "program audit" have the meanings ascribed to them in Sections 1-13 and 1-15 of the Illinois State Auditing Act.

(m) On and after the effective date of this amendatory Act of the 94th General Assembly, beginning on the first date on which renewable energy certificates or other saleable representations are sold by a qualified solid waste energy facility, with or without the electricity generated by the facility, and utilized by an electric utility or another electric supplier to comply with a renewable energy portfolio standard mandated by Illinois law or mandated by order of the Illinois Commerce Commission, that qualified solid waste energy facility may not sell electricity pursuant to this Section and shall be exempt from the requirements of subsections (a) through (l) of this Section, except that it shall remain obligated for any reimbursements required under subsection (d) of this Section. All of the provisions of this Section shall remain in full force and effect with respect to any qualified solid waste energy facility that sold electric energy pursuant to this Section at any time before July 1, 2006 and that does not sell renewable energy certificates or other saleable representations to meet the requirements of a renewable energy portfolio standard mandated by Illinois law or mandated by order of the Illinois Commerce Commission.

(n) Notwithstanding any other provision of law to the contrary, beginning on July 1, 2006, the Illinois Commerce Commission shall not issue any order determining that a facility is a qualified solid waste energy facility unless the qualified solid waste energy facility was determined by the Illinois Commerce Commission to be a qualified solid waste energy facility before July 1, 2006. As a guide to the intent, interpretation, and application of this amendatory Act of the 94th General Assembly, it is hereby declared to be the policy of this State to honor each qualified solid waste energy facility contract in existence on the effective date of this amendatory Act of the 94th General Assembly if the qualified

solid waste energy facility continues to meet the requirements of this Section for the duration of its respective contract term.

(Source: P.A. 91-901, eff. 1-1-01; 92-435, eff. 8-17-01; 92-574, eff. 6-26-02.)

ARTICLE 99. EFFECTIVE DATE

Section 99-99. Effective date. This Act takes effect upon becoming law.